

REMARKS

Initially, Applicants would like to express appreciation to the Examiner for the detailed Official Action provided.

Upon entry of the above amendment, claims 3, 4, 14-19, and 27-34 will have been canceled; and claims 5 and 6 will have been amended. Accordingly, claims 1, 2, 5-13, 20-26, 35, and 36 are currently pending. Claims 1, 2, 7-13, and 20-26 have been withdrawn from consideration by the Examiner as being directed to a nonelected invention. Applicants respectfully request reconsideration of the outstanding rejections and allowance of claims 5, 6, 35, and 36 in the present application. Such action is respectfully requested and is now believed to be appropriate and proper.

The Examiner has rejected claims 3-6, 14, 15, 27, 28, and 33-36 under 35 U.S.C. § 102(e) as being anticipated by SAADAT et al. (U.S. 2004/0138525).

Claims 3, 4, 14, 15, 27, 28, 33, and 34 have been canceled. Accordingly, the rejection of claims 3, 4, 14, 15, 27, 28, 33, and 34 under 35 U.S.C. § 103(a) over SAADAT et al. is now moot.

Further, although Applicants do not necessarily agree with the Examiner's rejection of claims 5 and 6 on this ground, nevertheless, Applicants have amended independent claims 5 and 6 to clearly obviate the above noted ground of rejection in order to expedite prosecution of the present application. In this regard, Applicants note that SAADAT et al. fails to show each and every element recited in the claims. In particular, independent claim 5, as amended, sets forth an internal treatment apparatus including, inter alia, a flexible tubular body including a center opening extending through the flexible tubular body and "a plurality of circumferential apertures through which surgical instruments are inserted for performing a surgical procedure on said

target site, each of said plurality of circumferential apertures being provided to extend through said flexible tubular body in an area including a side face of said flexible tubular body”. Independent claim 6 sets forth an internal treatment system including, inter alia, a flexible tubular body including a center opening extending through the flexible tubular body; “a plurality of circumferential apertures through which surgical instruments are inserted for performing a surgical procedure on said target site, each of said plurality of circumferential apertures being provided to extend through said flexible tubular body in an area including a side face of said flexible tubular body”; a body manipulating device; an endoscope manipulating device; and a surgical instrument manipulating device. Independent claims 5 and 6 have been amended to delete “said distal end face”.

Applicants’ invention provides an internal treatment apparatus 400 with an apparatus body 10a having a center opening 220 and a circumferential opening portion 130. See particularly pages 26-28 of the specification and figures 7-14.

The apparatus body 10a is a flexible tubular member that includes a distal end portion 111 and a deflectable portion 112 at the rear end face 111a of the distal end portion 111. The flexible tubular member 10a is provided with a circular center opening 220 at the distal end face 111b that passes through the flexible tubular member toward the proximal end face.

The flexible tubular member 10a also includes a circumferential opening portion 130, as shown in figures 7 and 8. The circumferential opening portion 130 includes circular apertures 131, 132, that are positioned at equi-angular intervals about the center 220a of the center opening 220. *The circumferential apertures 131, 132 open on the side surface of the distal end* of the flexible tubular member. The circumferential apertures 131, 132 pass through the flexible tubular member 10a from the side face 112b thereof to a proximal end face 10c of the flexible

tubular member. Thus, circumferential apertures 131, 132 are open on *the side surface of the distal end* of the internal treatment apparatus, and are open on the *end surface of the proximal end* of the internal treatment apparatus. *Thus, the apertures 131, 132 are open on the side surface of the distal end of the internal treatment apparatus.*

The SAADAT et al. reference shows a flexible tubular body 10 with a center opening 24 at the distal end of the tubular body 10, and a *plurality of circumferential apertures 26 at the proximal end of the tubular body 10*. See figure 2. The tubular body 10 of SAADAT et al. includes a distal end 14 and a proximal end 12. The center opening 24 is provided at the *distal end of the body 10*. The circumferential apertures 26 are provided at the *proximal end of the tubular body 10*. See figure 25A and 25B, which show the tool arms 30 projecting from the circumferential apertures 26 *at the proximal end 12 of the tubular body*. A distal end 34 of the tool arm 30 projects from the distal end face at the distal end 14 of the tubular body 10. Thus, *the tool arm 30 extends through the aperture 26 at the proximal end 12 of the tubular body 10, through the tubular body 10, and through the aperture on the distal end face at the distal end 14 of the tubular body 10*. See particularly figure 25A.

The Examiner contends that the claims do not specifically claim the location of the side face; and that there is no claim language which precludes the side face of the SAADAT et al. device to read on the claims.

However, Applicants respectfully submit that the claims do, in fact, specifically claim the location of the side face, and that the claims preclude the reading of the claims on the SAADAT et al. device. In this regard, the claims specifically claim the location of the side face *at the distal end of the tubular member*. Claims 5 and 6 have been amended to delete “said distal end face and” so as to set forth “each of said plurality of circumferential apertures being provided to

extend through said flexible tubular body in an area including a side face of said flexible tubular body”, at least in order to more particularly point out that the circumferential apertures extend through the side face and not through the distal end face, and to more particularly point out that the side face is located at the distal end of the tubular member.

Moreover, claims 5 and 6 set forth that the center opening is provided at the distal end for observing a *target site*. Further, as claimed, the circumferential apertures extend through an area including a side face, and are for receiving surgical instruments that are “inserted for performing a surgical procedure on said target site”. Thus, since the tubular member is configured such that the distal end is the end for observing the *target site*, and the circumferential apertures extend from the side face and receive surgical instruments inserted for performing at the *target site*, the side face and the circumferential apertures must also be positioned at the distal end of the tubular member. Accordingly, it is respectfully submitted that claims 5 and 6 specifically claim the position of the circumferential apertures extending from *the side face at the distal end of the tubular member*.

Thus, since the SAADAT et al. reference discloses a tool arm extending through a side face of the *proximal end* of the tubular body, the SAADAT et al. reference does not disclose a tubular body with the tool arm extending through a side face at the distal end of the tubular body, as claimed.

Therefore, the SAADAT et al. reference does not show an internal treatment apparatus including, inter alia, a flexible tubular body including a center opening extending through the flexible tubular body and “a plurality of circumferential apertures through which surgical instruments are inserted for performing a surgical procedure on said target site, each of said plurality of circumferential apertures being provided to extend through said flexible tubular body

in an area including a side face of said flexible tubular body”, as set forth in independent claim 5. Further, the SAADAT et al. reference fails to show an internal treatment system including, inter alia, a flexible tubular body including a center opening extending through the flexible tubular body; “a plurality of circumferential apertures through which surgical instruments are inserted for performing a surgical procedure on said target site, each of said plurality of circumferential apertures being provided to extend through said flexible tubular body in an area including a side face of said flexible tubular body”; a body manipulating device; an endoscope manipulating device; and a surgical instrument manipulating device, as set forth in independent claim 6.

Since the reference fails to show each and every element of the claimed device, the rejection of claims 5 and 6 under 35 U.S.C. § 102(e) over SAADAT et al. is improper and withdrawal thereof is respectfully requested.

Applicants submit that dependent claims 35 and 36, which are at least patentable due to their dependency from claims 5 and 6, respectively, for the reasons noted above, recite additional features of the invention and are also separately patentable over the prior art of record based on the additionally recited features. In particular, Applicants submit that none of the cited prior art teaches or suggests an internal treatment apparatus including “a circumferential opening portion includes said plurality of circumferential apertures, and the circumferential opening portion passes through the apparatus body from a side face of the deflectable portion toward a proximal end face of the apparatus body”, as set forth in claims 35 and 36. In this regard, it is noted that the circumferential apertures of the SAADAT et al. device are positioned at the *proximal end* of the tubular body. However, in the present invention, the circumferential apertures and the deflectable portion are positioned at the *distal* end of the tubular body, and the circumferential opening portion passes from a side face of the deflectable portion (at the distal end of the tubular

body) toward the proximal end of the tubular body. In the SAADAT et al. device, the circumferential apertures are positioned at the *proximal end* of the tubular body. Since the circumferential apertures cannot be positioned *both* at the proximal end of the tubular body and at the distal end of the tubular body, the SAADAT et al. device does not include the circumferential apertures that pass “through the apparatus body from a side face of the deflectable portion toward a proximal end face of the apparatus body”, as set forth in claims 35 and 36. Accordingly, claims 35 and 36 are each separately patentable for these additional reasons.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections, and an early indication of the allowance of claims 5, 6, 35, and 36.

SUMMARY AND CONCLUSION

In view of the foregoing, it is submitted that the proposed amendment is proper for entry since it merely clarifies the language in claims 5 and 6 describing the position of the circumferential apertures on the side face, which is an issue about which Applicants have already presented arguments and it is also submitted that none of the references of record, considered alone or in any proper combination thereof, anticipate or render obvious Applicants’ invention as recited in claims 5, 6, 35 and 36. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

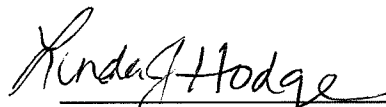
Accordingly, consideration of the present amendment, reconsideration of the outstanding Final Official Action, and allowance of the present amendment and all of the claims therein are respectfully requested and now believed to be appropriate.

Applicants have made a sincere effort to place the present application in condition for allowance and believe that they have now done so.

Any amendments to the claims which have been made in this amendment, which do not narrow the scope of the claims, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered cosmetic in nature, and to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should there be any questions, the Examiner is invited to contact the undersigned at the below listed number.

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